IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SECOND DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 4529 of 1997

Between:

Lakshmi Persad Petwal, S/o. Fatheram Petwal, New Science College, Ameerpet, Hyderabad.

..... PETITIONER

AND

1 The Government of Andhra Pradesh, rep. by its Education Secretary, Secretariat, Hyderabad.
2 The Commissioner of Collegiate Education, Nampally, Hyderabad.
3 The Regional Joint Director, Hyderabad.
4 The Secretary & Correspondent, New Science College, Ameerpet, Hyderabad.
5 The Principal, New Science College, Ameerpet, Hyderabad.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to pleased issue an order or direction or proceedings more appropriately in the nature of a writ of mandamus or any other appropriate writ, order or direction or proceedings to the respondents herein to reinstate the petitioner in service as a night watchman at the New Science College, Ameerpet, Hyderabad with full salary allowance and all other consequential benefits and to declare such termination removal, dismissal, or retrenchment as null and void in the interest of justice.

Counsel for the Petitioner:MR.K.V.SUBBA REDDY

Counsel for the Respondent No.: GP FOR HIGHER EDUCATION

The Court made the following :

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ORDER:

Heard the learned counsel appearing for the petitioner and also the learned Government Pleader appearing on behalf of the respondents.

The petitioner herein who claims to be an employee in the 4th respondent herein, filed this Writ Petition, inter alia, seeking mandamus for a direction to reinstate the petitioner in service as night watchman at the New Science College, Ameerpet, Hyderabad with full salary allowance and all other consequential benefits.

The case of the petitioner in brief is that he was initially appointed as night watchman in the year 1987 and subsequently, in the month of April, 1996 he was not allowed to sign in the attendance register. Therefore, the petitioner filed a representation on 29.1.1997 and the same was remain un-considered. Hence, the present Writ Petition.

It is further pointed out that in view of the interim orders granted by this court for consideration of the said representation, pending the Writ Petition, a fresh order was passed by the third respondent herein on 2.4.1998 rejecting the same on the ground that the petitioner was not a regular employee of the fourth respondent but

was only appointed as watchman of the building which was under construction, therefore, the petitioner filed an application seeking amendment of the petition seeking to challenge the orders dated 2.4.1998 of the third respondent, which was allowed.

The learned counsel appearing for the petitioner submits that having regard to the fact that the petitioner Is also shown as one among the employees and consideration is made to the employees provident fund and in support of it, he sought to place reliance on the letter issued by the said organization dated 21.2.2003 and this itself would show that the petitioner was a regular employee of the fourth respondent and the claim that he is only watchman for the purpose of construction of the building cannot be acceded to.

The learned counsel appearing for the respondents sought to deny the aforesaid allegation.

Having regard to the submissions made and also on perusal of the material, it is not in dispute with regard to the fact that the petitioner's services were taken and though in respect of which there is dispute as to whether he is on regular side or he worked as watchman for the purpose of construction for a short period. Admittedly, the petitioner though filed a representation before the third respondent herein, but however, no documents including the letter dated 21.2.2003 which are sought to be pressed into service in this Writ Petition, are not filed before the third respondent. Apparently, on taking into consideration the representation made and the stand taken by the fifth respondent, the third respondent has rejected the representation treating him as watchman for the purpose of construction.

Be that as it may, with a view to give a further opportunity to the petitioner for producing necessary evidence including the aforesaid letter for re-consideration, it is felt desirable a fresh consideration should be given. Therefore, the petition is allowed and the impugned order dated 2.4.1998 passed by the third respondent is set aside and the matter is remitted back to the third respondent for fresh disposal in accordance with law after giving notice and opportunity to both sides. It shall be open for the petitioner to place all the material, which is available to him to substantiate his claim. The third respondent is directed to consider and dispose of the same within a period of two months from the date of receipt of a copy of this order.

B. Prakash Rao, J

2nd December, 2004

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That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Thursday, The Second Day of December Two Thousand and Four.

To

1 The Government of Andhra Pradesh, rep. by its Education Secretary, Secretariat, Hyderabad.
2 The Commissioner of Collegiate Education, Nampally, Hyderabad.
3 The Regional Joint Director, Hyderabad.
4 The Secretary & Correspondent, New Science College, Ameerpet, Hyderabad.
5 The Principal, New Science College, Ameerpet, Hyderabad.

6. Two CCs to G.P. for Higher Education, High Court of A.P Buildings, Hyderabad(OUT)

7. Two CD Copies